WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987

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ENROLLED

HOUSE BILL No. 3155.

(By Delegate Mr. Speaker, Mr. Chambers)

Passed April 7, 1987

In Effect from Passage
AN ACT to amend and reenact sections two, three, fourteen, twenty, twenty-four, twenty-six, thirty-seven, forty-three, forty-six, fifty-five, fifty-six, fifty-eight, sixty-three and seventy-seven, article two, chapter twenty-two-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article two by adding thereto a new section, designated section seventy-one-a; and to amend and reenact section twenty-two (nine) (six), article two, chapter sixty-four of said code, as amended, all relating to underground mines generally; coal mine plans of ventilation and approval of director; fans; safety inspections; removal of gases; preparation of danger signal by fire boss; control of coal dust; rock dusting; specific requirements as to roof supports; haulage roads and equipment; shelter holes; signals; inspection; electrical equipment in mines; welding and cutting; protective equipment and clothing; checking systems; fire protection; certificate of approval for coal mines; right to refuse to work in unsafe area; certain practices prohibited; monthly report by operator of mine and providing certain exceptions therefor; and authorizing the promulgation of certain legislative rules and regulations relating to the standards for certification of underground belt examiners for underground coal mines.
Be it enacted by the Legislature of West Virginia:

That sections two, three, fourteen, twenty, twenty-four, twenty-six, thirty-seven, forty-three, forty-six, fifty-five, fifty-six, fifty-eight, sixty-three and seventy-seven, article two, chapter twenty-two-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article two be further amended by adding thereto a new section, designated section seventy-one-a; and that section twenty-two (nine) (six), article two, chapter sixty-four of said code, as amended, be amended and reenacted, all to read as follows:

CHAPTER 22A. MINES AND MINERALS.

ARTICLE 2. UNDERGROUND MINES.

§22A-2-2. Plan of ventilation; approval by director of the division of mines and minerals.

Every operator of a coal mine, before making any new or additional openings, shall submit to the director, for his information and approval, a general plan showing the proposed system of ventilation and ventilating equipment of the openings, with their location and relative positions to adjacent developments; no such new or additional openings shall be made until approved by the director, in consultation with the deputy directors of permitting and safety, health and training. The operator shall deliver to the miners' representative employed by the operator at the mine a copy of the operator's proposed annual ventilation plan at least ten days prior to the date of submission. The miners' representative shall be afforded the opportunity to submit written comments to the operator prior to such submission; in addition the miners' representative may submit written comments to the director. The director shall promptly approve any such plans submitted, if the proposed system of ventilation and ventilating equipment meet the requirements of this article.


(a) The ventilation of mines, the systems for which extend for more than two hundred feet underground and which are opened after the effective date of this
article, shall be produced by a mechanically operated
fan or mechanically operated fans. Ventilation by means
of a furnace is prohibited in any mine. The fan or fans
shall be kept in continuous operation, unless written
permission to do otherwise be granted by the director.
In case of interruption to a ventilating fan or its
machinery whereby the ventilation of the mine is
interrupted, immediate action shall be taken by the
mine operator or his management personnel, in all
mines, to cut off the power and withdraw the men from
the face regions or other areas of the mine affected. If
ventilation is restored in fifteen minutes, the face
regions and other places in the affected areas where gas
(methane) is likely to accumulate, shall be reexamined
by a certified person; and if found free of explosive gas,
power may be restored and work resumed. If ventilation
is not restored in fifteen minutes, all underground
employees shall be removed from the mine, all power
shall be cut off in a timely manner, and the under-
ground employees shall not return until ventilation is
restored and the mine examined by certified persons,
mine examiners, or other persons holding a certificate
to make preshift examination.

(b) All main fans installed after the effective date of
this article shall be located on the surface in fireproof
 housings offset not less than fifteen feet from the nearest
side of the mine opening, equipped with fireproof air
ducts, provided with explosion doors or a weak wall, and
operated from an independent power circuit. In lieu of
the requirements for the location of fans and pressure-
relief facilities, a fan may be directly in front of, or over
a mine opening: Provided, That such opening is not in
direct line with possible forces coming out of the mine
if an explosion occurs: Provided, however, That there is
another opening having a weak-wall stopping or
explosion doors that would be in direct line with forces
coming out of the mine. All main fans shall be provided
with pressure-recording gauges or water gauges. A
daily inspection shall be made of all main fans and
machinery connected therewith by a certified electrician
and a record kept of the same in a book prescribed for
this purpose or by adequate facilities provided to
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46 permanently record the performance of the main fans
47 and to give warning of an interruption to a fan.

48 (c) Auxiliary fans and tubing shall be permitted to be
49 used in lieu of or in conjunction with line brattice to
50 provide adequate ventilation to the working faces:
51 Provided, That auxiliary fans be so located and operated
52 to avoid recirculation of air at any time. Auxiliary fans
53 shall be approved and maintained as permissible.

54 (d) If the auxiliary fan is stopped or fails, the
55 electrical equipment in the place shall be stopped and
56 the power disconnected at the power source until
57 ventilation in the working place is restored. During such
58 stoppage, the ventilation shall be by means of the
59 primary air current conducted into the place in a
60 manner to prevent accumulation of methane.

61 (e) In places where auxiliary fans and tubing are
62 used, the ventilation between shifts, weekends, and idle
63 shifts shall be provided to face areas with line brattice
64 or the equivalent to prevent accumulation of methane.

65 (f) The director may require that when continuous
66 mine equipment is being used, all face ventilating
67 systems using auxiliary fans and tubing shall be
68 provided with machine-mounted diffuser fans, and such
69 fans shall be continuously operated during mining
70 operations.

71 (g) In the event of a fire or explosion in any coal mine,
72 the ventilating fan or fans shall not intentionally be
73 started, stopped, speed increased or decreased or the
74 direction of the air current changed without the
75 approval of the general mine foreman, and, if he is not
76 immediately available, a representative of the division.
77 A duly authorized representative of the employees
78 should be consulted if practical under the circumstan-
79 ces.


1 It shall be the duty of the mine foreman, assistant
2 mine foreman or fire boss to examine all working places
3 under his supervision for hazards at least once every two
4 hours during each coal-producing shift, or more often if
necessary for safety. In all mines such examinations shall include tests with an approved detector for methane and oxygen deficiency, which tests for oxygen deficiency may be with a permissible flame safety lamp: Provided, That a flame safety lamp may be used for methane testing when a malfunction occurs with a methane detector. It shall also be his duty to remove as soon as possible after its discovery any accumulations of explosive or noxious gases in active workings, and where practicable, any accumulations of explosive or noxious gases in the worked out and abandoned portions of the mine. It shall be the duty of the mine foreman, assistant mine foreman or fire boss to examine each mine within three hours prior to the beginning of a shift and before any miner in such shift enters the active workings of the mine.

§22A-2-20. Preparation of danger signal by fire boss or certified person acting as such prior to examination; report; records open for inspection.

It shall be the duty of the fire boss, or a certified person acting as such, to prepare a danger signal (a separate signal for each shift) with red color at the mine entrance at the beginning of his shift or prior to his entering the mine to make his examination and, except for those persons already on assigned duty, no person except the mine owner, operator, or agent, and only then in the case of necessity, shall pass beyond this danger signal until the mine has been examined by the fire boss or other certified person and the mine or certain parts thereof reported by him to be safe. When reported by him to be safe, the danger sign or color thereof shall be changed to indicate that the mine is safe in order that employees going on shift may begin work. Each person designated to make such fire boss examinations shall be assigned a definite underground area of such mine, and, in making his examination shall examine all active working places in the assigned area and make tests with an approved device for accumulations of methane and oxygen deficiency; examine seals and doors; examine and test the roof, face, and ribs in the working places
and on active roadways and travelways, approaches to
abandoned workings and accessible falls in active
sections. He shall place his initials and the date at or
near the face of each place he examines. Should he find
a condition which he considers dangerous to persons
entering such areas, he shall place a conspicuous danger
sign at all entrances to such place or places. Only
persons authorized by the mine management may enter
such places while the sign is posted and only for the
purpose of eliminating the dangerous condition. Upon
completing his examination he shall report by suitable
communication system or in person the results of this
examination to a certified person designated by mine
management to receive and record such report, at a
designated station on the surface of the premises of the
mine or underground, before other persons enter the
mine to work in such coal-producing shifts. He shall also
record the results of his examination with ink or
indelible pencil in a book prescribed by the director,
kept for such purpose at a place on the surface of the
mine designated by mine management. All records of
daily and weekly reports, as prescribed herein, shall be
open for inspection by interested persons.

§22A-2-24. Control of coal dust; rock dusting.

(a) In all mines, dangerous accumulations of fine, dry
coal and coal dust shall be removed from the mine, and
all dry and dusty operating sections and haulageways
and conveyors and back entries shall be rock dusted or
dust allayed by such other methods as may be approved
by the director.

(b) All mines or locations in mines that are too wet
or too high in incombustible content for a coal dust
explosion to initiate or propagate are not required to be
rock dusted during the time any of these conditions
prevail. Coal dust and other dust in suspension in
unusual quantities shall be allayed by sprinkling or
other dust allaying devices.

(c) In all dry and dusty mines or sections thereof, rock
dust shall be applied and maintained upon the roof, floor
and sides of all operating sections, haulageways and
parallel entries connected thereto by open crosscuts.

Back entries shall be rock dusted. Rock dust shall be so
applied to include the last open crossect of rooms and
entries, and to within forty feet of faces. Rock dust shall
be maintained in such quantity that the incombustible
content of the mine dust that could initiate or propagate
an explosion shall not be less than sixty-five percent, but
the incombustible content in return entries shall not be
less than eighty percent.

(d) Rock dust shall not contain more than five percent
by volume of quartz or free silica particles and shall be
pulverized so that one hundred percent will pass
through a twenty mesh screen and seventy percent or
more will pass through a two hundred mesh screen.

§22A-2-26. Roof support; specific requirements.

(a) Generally. — The method of mining followed in
any coal mine shall not expose the miner to unusual
dangers from roof falls.

(b) Roadways, intersections and arches. — The width
of roadways shall not exceed sixteen feet unless
additional support is added cross sectional. During the
development of intersections, the roof between the
tangents of the arches in the entry or room shall be
supported with artificial roof supports prior to the
development of such intersections. All areas where the
arch is broken shall be considered as having unsup-
ported roof and such roof should have artificial roof
supports installed prior to any other work being
performed in the area.

(c) Examinations and corrections. — Where miners
are exposed to danger from falls of roof, face, and ribs,
the operator shall examine and test the roof, face, and
ribs before any work or machine is started, and as
frequently thereafter as may be necessary to ensure
safety. When dangerous conditions are found, they shall
be corrected immediately. A probe or probes for
methane detectors shall be provided on each working
section other than longwall sections and sections mined
solely with continuous miners with integral roof bolters.
(d) **Roof bolt recovery.** — Roof bolts shall not be recovered where complete extraction of pillars is attempted, where adjacent to clay veins or at the locations of other irregularities, whether natural or otherwise, that induce abnormal hazards. Where roof bolt recovery is permitted, it shall be conducted only in accordance with methods prescribed in the approved roof control plan, and shall be conducted by experienced miners and only where adequate temporary support is provided.

§22A-2-37. **Haulage roads and equipment; shelter holes; prohibited practices; signals; inspection.**

(a) The roadbed, rails, joints, switches, frogs and other elements of all haulage roads shall be constructed, installed and maintained in a manner consistent with speed and type of haulage operations being conducted to ensure safe operation. Where transportation of personnel is exclusively by rail, track shall be maintained to within five hundred feet of the nearest working face, except that when any section is fully developed and being prepared for retreating, then the distance of such maintenance can be extended to eight hundred feet if a rubber tired vehicle is readily available.

(b) Track switches, except room and entry development switches, shall be provided with properly installed throws, bridle bars and guardrails; switch throws and stands, where possible, shall be placed on the clearance side.

(c) Haulage roads on entries developed after the effective date of this article shall have a continuous, unobstructed clearance of at least twenty-four inches from the farthest projection of any moving equipment on the clearance side.

(d) On haulage roads where trolley lines are used, the clearance shall be on the side opposite the trolley lines.

(e) On the trolley wire or “tight” side, after the effective date of this article, there shall be at least twelve inches of clearance from the farthest projection of any moving equipment.
(f) Warning lights or reflective signs or tapes shall be installed along haulage roads at locations of abrupt or sudden changes in the overhead clearance.

(g) The clearance space on all haulage roads shall be kept free of loose rock, coal, supplies or other material: Provided, That not more than twenty-four inches need be kept free of such obstructions.

(h) Ample clearance shall be provided at all points where supplies are loaded or unloaded along haulage roads or conveyors, which in no event shall be less than twenty-four inches.

(i) Shelter holes shall be provided along haulage entries driven after the effective date of this article where locomotive, rope or animal haulage is used. Such shelter holes shall be spaced not more than one hundred feet apart, except when variances are authorized by the director with unanimous agreement of the mine safety and technical review committee. Shelter holes shall be on the side of the entry opposite the trolley wire except that shelter holes may be on the trolley wire and feeder wire side if the trolley wire and feeder wire are guarded in a manner approved by the director.

(j) Shelter holes made after the effective date of this article, unless the director with unanimous agreement of the mine safety and technical review committee grants a waiver, shall be at least five feet in depth, not more than four feet in width, and as high as the traveling space. Room necks and crosscuts may be used as shelter holes even though their width exceeds four feet.

(k) Shelter holes shall be kept clear of refuse and other obstructions.

(l) After the effective date of this article, shelter holes shall be provided at switch throws and manually operated permanent doors.

(m) No steam locomotive shall be used in mines where miners are actually employed in the extraction of coal, but this shall not prevent operation of a steam locomotive through any tunnel haulway or part of a mine that
is not in actual operation and producing coal.

(n) Underground equipment powered by internal combustion engines using petroleum products, alcohol, or any other compound shall not be used in a coal mine.

(o) Locomotives, personnel carriers, mine cars, supply cars, shuttle cars, and all other haulage equipment shall be maintained in a safe operating condition. Each locomotive, personnel carrier, barrier tractor and other related equipment shall be equipped with a suitable lifting jack and handle. An audible warning device and headlights shall be provided on each locomotive and each shuttle car. All other mobile equipment, using the face areas of the mine, purchased after the effective date of this article, shall be provided with a conspicuous light or other approved device so as to reduce the possibility of collision.

(p) No persons other than those necessary to operate a trip or car shall ride on any loaded car or on the outside of any car. Where pusher locomotives are not used, the locomotive operator shall have an assistant to assist him in his duties.

(q) The pushing of trips, except for switching purposes, is prohibited on main haulage roads: Provided, That nothing herein shall prohibit the use of a pusher locomotive to assist the locomotive pulling a trip. Motormen and trip riders shall use care in handling locomotives and cars. It shall be their duty to see that there is a conspicuous light on the front and rear of each trip or train of cars when in motion: Provided, however, That trip lights need not be used on cars being shifted to and from loading machines, on cars being handled at loading heads during gathering operations at working faces, or on trips being pulled by animals. No person except the operator or his assistant shall ride on locomotives or loaded cars. An empty car or cars shall be used to provide a safe distance between the locomotive and the material car when rail, pipe or long timbers are being hauled. A safe clearance shall be maintained between the end car or trips placed on side tracks and moving traffic. On haulage roads the
(r) No motorman, trip rider or brakeman shall get on or off cars, trips or locomotives while they are in motion, except that a trip rider or brakeman may get on or off the rear end of a slowly moving trip or the stirrup of a slowly moving locomotive to throw a switch, align a derail or open or close a door.

(s) Flying or running switches and riding on the front bumper of a car or locomotive are prohibited. Back poling shall be prohibited except with precaution to the nearest turning point (not over eighty feet), or when going up extremely steep grades and then only at slow speed. The operator of a shuttle car shall face in the direction of travel except during the loading operation when he shall face the loading machine.

(t) (1) A system of signals, methods or devices shall be used to provide protection for trips, locomotives and other equipment coming out onto tracks used by other equipment.

(2) In any coal mine where more than three hundred fifty tons of coal are produced on any shift in each twenty-four hour period, a dispatcher shall be on duty when there are movements of track equipment underground, including time when there is no production of coal. Such traffic shall move only at the direction of the dispatcher.

(3) The dispatcher’s only duty shall be to direct traffic: Provided, That the dispatcher’s duties may also include those of the responsible person required by section forty-two of this article: Provided, however, That the dispatcher may perform other duties which do not interfere with his dispatching responsibilities and do not require him to leave the dispatcher’s station except as approved by the mine safety and technical review committee.

(4) Any dispatcher’s station provided after the effective date of this article shall be on the surface.

(5) All self-propelled track equipment shall be
equipped with two-way communications.

(u) Motormen shall inspect locomotives, and report any mechanical defects found to the proper supervisor before a locomotive is put in operation.

(v) A locomotive following another trip shall maintain a distance of at least three hundred feet from the rear end of the trip ahead, unless such locomotive is coupled to the trip ahead.

(w) Positive stopblocks or derails shall be installed on all tracks near the top and at landings of shafts, slopes, and surface inclines. Positive-acting stopblocks or derails shall be used where necessary to protect persons from danger of runaway haulage equipment.

(x) Shuttle cars shall not be altered by the addition of sideboards so as to inhibit the view of the operator.

(y) Mining equipment shall not be parked within fifteen feet of a check curtain or fly curtain.

(z) All self-propelled track haulage equipment shall be equipped with an emergency stop switch, self centering valves, or other devices designed to de-energize the traction motor circuit in the event of an emergency: Provided, That such equipment in operation in a mine on or before the first day of January, one thousand nine hundred eighty-seven, shall not be required to be retrofitted. On or before the first day of January, one thousand nine hundred eighty-seven, all track mounted equipment shall be equipped with trolley pole swing limiters or other means approved by the mine safety and technical review committee to restrict movement of the trolley pole when it is disengaged from the trolley wire. Battery powered mobile equipment shall have the operating controls clearly marked to distinguish the forward and reverse positions.


(a) Methane. — Electric equipment shall not be taken into or operated in any place where methane can be detected with a flame safety lamp or other approved methane detector at one percent or more at any point
not less than twelve inches from the roof, face, or rib.

(b) **Return air.** — In all mines, electric haulage locomotives operated from trolley wire and other electrical equipment or devices which may ignite gas shall not be used in return air, unless permission is granted by the director for a specified area. For the purpose of this provision, air used to ventilate a section of a mine shall not be considered return air until such time as the air has ventilated all of the workings in the section.

(c) **Qualified person to operate cutting machine.** — No person shall be placed in charge of a coal-cutting machine in any mine who is not a qualified person, capable of determining the safety of the roof and sides of the working places and of detecting the presence of explosive gas, unless they are accompanied by a certified or qualified person who has passed such an examination.

(d) **Inspections.** — In any mine no machine shall be brought in by the last breakthrough next to the working face until the machine man shall have made an inspection for gas in the place where the machine is to work. If explosive gas in excess of one percent is found in the place, the machine shall not be taken in until the danger is removed.

(e) **Indication of gas.** — In working places a suitable approved apparatus for the detection of explosive gas, shall be provided for use with each mining machine when working, and should any indication of explosive gas in excess of one percent appear on any apparatus used for the detection of explosive gas, the person in charge shall immediately stop the machine, cut off the current at the nearest switch and report the condition to the mine foreman or supervisor. The machine shall not again be started in such place until the condition found has been corrected and been pronounced safe by a certified person.

(f) **Periodic gas examinations.** — No electric equipment shall be operated in a mine for a longer period than twenty minutes without an examination as above
described being made for gas; and if gas is found in
excess of one percent, the current shall at once be
switched off the machine, and the trailing cable shall
forthwith be disconnected from the power supply until
the place is pronounced safe.

(g) *Operation of mining machines.* — Machine runners
and helpers shall use care while operating mining
machines. They shall examine the roof of the working
place to see that it is safe before starting to operate the
machine. They shall not move the machine while the
cutter chain is in motion.


(a) A record shall be kept of oxygen and gas tanks or-
cylinders taken into a mine and the date shall be
recorded when they are removed from the mine. No
more tanks or cylinders than necessary to perform the
work efficiently shall be permitted underground at one
time.

(b) Propane torches may be used in lieu of blow-
torches. Only approved apparatus such as torches,
regulators, pressure reducing valves, hoses, check valves
and gas cylinders shall be used.

(c) Welding and cutting may be done in mines:
*Provided,* that all equipment and gauges are main-
tained in safe condition and not abused, that suitable
precautions are taken against ignition of methane, coal
dust, or combustible materials, that means are provided
for prompt extinguishment of fires accidentally started,
and that only persons who have demonstrated compet-
ence in welding and cutting are entrusted to do this
work. Adequate eye protection shall be used by all
persons doing welding or cutting, and precautions shall
be taken to prevent other persons from exposure that
might be harmful to their eyes. A suitable wrench
designed for compressed tanks shall be provided to the
person authorized to use the equipment.

(d) Transportation of oxygen and gas tanks or cylind-
ers shall be permitted on self-propelled machinery or
belt conveyors specially equipped for safe holding of the
containers in transportation. In no instance shall such transportation be permitted in conjunction with any mantrip, unless such mantrip is especially equipped with a compartment, lined with at least four inches of foam rubber or the equivalent, and capable of tightly securing the tank inside the manufactured frame of the vehicle.

(e) Empty oxygen and gas tanks or cylinders shall be marked “empty” and shall be removed from the mine promptly in safe containers provided for transportation of the same.

(f) When tanks and cylinders are not in use and when they are being transported, valve protection caps and plugs shall be placed on all tanks or cylinders for which caps and plugs are available. No oxygen tanks, gas tanks or cylinders shall be transported with the hoses and gauges attached thereto.

(g) In all mines a certified person, pursuant to section twelve of this article, shall examine for gas with permissible flame safety lamps or other approved detectors before and during welding or cutting. The safety of the equipment and methods used in such cases shall be subject to approval of the director. If equipment is mobile, it shall be removed outby the last open breakthrough before cutting and welding may be performed on such equipment.

§22A-2-55. Protective equipment and clothing.

(a) Welders and helpers shall use proper shields or goggles to protect their eyes. All employees shall have approved goggles or shields and use the same where there is a hazard from flying particles, or other eye hazards.

(b) Employees engaged in haulage operations and all other persons employed around moving equipment on the surface and underground shall wear snug-fitting clothing.

(c) Protective gloves shall be worn when material which may injure hands is handled, but gloves with gauntleted cuffs shall not be worn around moving
(d) Safety hats and safety-toed shoes shall be worn by all persons while in or around a mine.

(e) Approved eye protection shall be worn by all persons while being transported in open-type man trips.

(f) A self-rescue device approved by the director shall be worn by each person underground or kept within his immediate reach, and such device shall be provided by the operator. The self-rescue device shall be adequate to protect such miner for one hour or longer. Each operator shall train each miner in the use of such device, and refresher training courses for all underground employees shall be held during each calendar year.

§22A-2-56. Checking systems.

Each mine shall have a check-in and check-out system which will provide positive identification of every person underground and will provide an accurate record of the persons in the mine kept on the surface in a place that will not be affected in the event of an explosion. Said record shall bear a number or name identical to the identification check that is securely fastened to the lamp belt of all persons underground. The identification check shall be made of a rust-resistant metal of no less than sixteen gauge.


(a) Suitable fire protection shall be provided at surface installations of fans, shops, tipples, and preparation plants, substations, hoist rooms and compressor stations.

(b) Fire drills and demonstration of various types of available fire-fighting equipment shall be held for employees at least every six months.

(c) The location of pipelines, location of valves, and fire taps shall be shown on a map of the mine and kept available at the mine office at all times.

(d) Each coal mine shall be provided with suitable fire-fighting equipment adapted for the size and
condition of the mine. Fire-fighting equipment required
under this article shall meet the following requirements:

(1) Waterlines shall be capable of delivering fifty
gallons of water at a nozzle pressure of fifty pounds per
square inch.

(2) A portable water car shall be of at least one
thousand gallons capacity, and shall have at least three
hundred feet of fire hose with nozzles. A portable water
car shall be capable of providing a flow through the hose
of fifty gallons of water per minute at a nozzle pressure
of fifty pounds per square inch.

(3) A portable chemical car shall carry enough
chemicals to provide a fire extinguishing capacity
equivalent to that of a portable water car.

(4) A portable foam-generating machine shall have
facilities and equipment for supplying the machine with
thirty gallons of water per minute at thirty pounds per
square inch for a period of thirty-five minutes.

(5) A portable fire extinguisher shall be either a
multipurpose dry chemical type, containing a nominal
weight of five pounds of dry powder and enough
expellant to apply the powder; or a foam-producing type
containing at least two and one-half gallons of foam-
producing liquid and enough expellant to supply the
foam. Only fire extinguishers approved by the
Underwriters Laboratories, Inc. or Factor Mutual
Laboratories, carrying appropriate labels as to type and
purpose shall be used after the first day of July, one
thousand nine hundred seventy-one, and all new porta-
ble fire extinguishers acquired for use in a coal mine
shall be of the multipurpose dry chemical type, having
a 2A 10BC or higher rating.

(6) The fire hose shall be rubber-lined, mildew-proof
and the cover shall be of flame-resistant qualities,
meeting requirements for hose in Bureau of Mines
Schedule 2G, except that the test flame shall be applied
to the outer surface rather than to an open end. The
bursting pressure shall be at least four times higher
than the static water at the mine location; the maximum
water pressure in the hose nozzle shall not exceed 100 p.s.i.g.

(e) Each working section of coal mines producing three hundred tons or more per shift shall be provided with two portable fire extinguishers and two hundred forty pounds of bagged rock dust or equivalent; water-lines shall extend to each section loading point and be equipped with enough fire hose to reach each working face unless the section loading point is provided with one of the following: (1) Two portable water cars or (2) two portable chemical cars, or (3) one portable water car or one portable chemical car and either a portable foam-generating machine or a portable high-pressure rock-dusting machine, fitted with at least two hundred fifty feet of hose and supplied with at least sixty sacks of rock dust.

(f) In all coal mines, waterlines shall be installed parallel to the entire length of belt conveyors and shall be equipped with fire hose outlets with valves at three-hundred-foot intervals along each belt conveyor and at tailpieces. At least five hundred feet of fire hose with fittings suitable for connection with each belt conveyor waterline system shall be stored at strategic locations along the belt conveyor. Waterlines may be installed in entries adjacent to the conveyor entry belt as long as the outlets project into the belt conveyor entry. Each working section of coal mines producing less than three hundred tons of coal per shift shall be provided with two portable fire extinguishers, two hundred forty pounds of bagged rock dust and at least five hundred gallons of water and at least three pails of ten-quart capacity. In lieu of the five hundred gallon water supply, a waterline with sufficient hose to reach the working places, a portable water car of five hundred fifty gallons capacity, or a portable all-purpose dry powder chemical car of at least one hundred twenty-five pounds capacity may be provided.

(g) In mines producing three hundred tons of coal or more per shift, waterlines shall be installed parallel to all haulage tracks using mechanized equipment in the track or adjacent entry and shall extend to the loading
point of each working section. Waterlines shall be equipped with outlet valves at intervals of not more than five hundred feet, and five hundred feet of fire hose with fittings suitable for connection with such waterlines shall be provided at strategic locations. Two portable water cars, readily available, may be used in lieu of waterlines prescribed under this subsection.

(h) In mines producing less than three hundred tons of coal per shift, there shall be provided at five-hundred-foot intervals in all main and secondary haulage roads:

1. A tank of water of at least fifty-five gallon capacity with at least three pails of not less than ten-quart capacity, or
2. Not less than two hundred forty pounds of bagged rock dust.

(i) Each track or off-track locomotive, self-propelled man-trip car, or personnel carrier shall be equipped with one portable fire extinguisher.

(j) Two portable fire extinguishers shall be provided at each permanent electrical installation. One portable fire extinguisher and two hundred forty pounds of rock dust or equivalent shall be provided at each temporary electrical installation.

(k) Two portable fire extinguishers and two hundred forty pounds of rock dust or equivalent shall be provided at each permanent underground oil storage station. One portable fire extinguisher shall be provided at each working section where twenty-five gallons or more of oil are stored in addition to extinguishers required under subsection (e) of this section.

(l) One portable fire extinguisher or two hundred forty pounds of rock dust or equivalent and water shall be provided at locations where welding, cutting, or soldering with arc or flame is being done.

(m) At each wooden door through which power lines pass there shall be one portable fire extinguisher or two hundred forty pounds of rock dust or equivalent within twenty-five feet of the door on the intake air side.

(n) At each mine producing three hundred tons of coal or more per shift, there shall be readily available the
following materials at locations not exceeding two miles from each working section:
(1) One thousand board feet of brattice boards
(2) Two rolls of brattice cloth
(3) Two handsaws
(4) Twenty-five pounds of 8 degree nails
(5) Twenty-five pounds of 10 degree nails
(6) Twenty-five pounds of 16 degree nails
(7) Three claw hammers
(8) Twenty-five bags of wood fiber plaster or ten bags of cement (or equivalent material for stoppings)
(9) Five tons of rock dust.

At each mine producing less than three hundred tons of coal per shift, the above materials shall be available at the mine: Provided, however, That the emergency materials for one or more mines may be stored at a central warehouse or building supply company and such supply must be the equivalent of that required for all mines involved and within one hour’s delivery time from each mine. This exception shall not apply where the active working sections are more than two miles from the surface.

§22A-2-63. No mine to be opened or reopened without prior approval of commissioner of the department of energy; approval fee; extension of certificate of approval; certificates not transferable; section to be printed on certificates.

(a) Permit request. — After the first day of July, one thousand nine hundred seventy-one, no mine shall be opened or reopened unless prior approval has been obtained from the commissioner of the department of energy, which approval shall not be unreasonably withheld. The operator shall pay for such approval a fee of ten dollars, which payment shall be tendered with the operator’s application for such approval: Provided, That
mines producing coal solely for the operator's use shall be issued a permit without charge if coal production will be less than fifty tons a year.

(b) *Extension of permit.* — Within thirty days after the first day of January of each year, the operator of each mine holding a certificate evidencing approval of the commissioner to open a mine shall apply for the extension of such certificate of approval for an additional year, excepting those approved by the director to go on inactive status. Such approval, evidenced by a certificate of the commissioner, shall be granted as a matter of right and without charge if, at the time such application is made, the operator is in compliance with the provisions of section seventy-seven of this article and has paid or otherwise appealed all coal mine assessments imposed under article one-a, chapter twenty-two-a of this code. Applications for extension of such certificates of approval not submitted within the time required shall be processed as an application to open or reopen a mine and shall be accompanied by a fee of ten dollars.

(c) *Not transferable.* — Certificates of approval issued pursuant to this section shall not be transferable.

(d) *Status of certificate.* — The provisions of this section shall be printed on the reverse side of every certificate issued hereunder.

(e) *Preinspection.* — The district mine inspector shall be contacted for a preinspection of the area proposed for underground mining prior to the issuance of any new opening approval.

§22A-2-71a. **Right of miner to refuse to work in an unsafe area or unsafe manner.**

Any miner has the right to refuse to work in an area or under conditions which he believes to be unsafe.

§22A-2-77. **Monthly report by operator of mine; exception as to certain inactive mines.**

On or before the end of each calendar month, the operator of each coal mine shall file with the director
a report with respect thereto covering the next preceding calendar month which shall reflect the number of accidents which have occurred at each such mine, the number of persons employed, the days worked and the actual tonnage mined. Such report shall be made upon forms furnished by the director. Other provisions of this section to the contrary notwithstanding, no such report shall be required with respect to any mine on approved inactive status if no employees were present at such mine at any time during the next preceding calendar month.

CHAPTER 64. LEGISLATURES RULES.

ARTICLE 2. EXECUTIVE AGENCY AUTHORIZATION TO PROMULGATE LEGISLATIVE RULES.

§64-2-22(9)(6). Commissioner of the department of energy.

(a) The legislative rules filed in the state register on the fourteenth day of November, one thousand nine hundred eighty-six, modified by the commissioner of the department of energy to meet the objections of the legislative rule-making review committee and refiled in the state register on the sixteenth day of December, one thousand nine hundred eighty-six, relating to the commissioner of the department of energy (standards for certification of coal mine electricians) are authorized.

(b) The legislative rules filed in the state register on the fifteenth day of December, one thousand nine hundred eighty-six, modified by the commissioner of the department of energy to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-first day of January, one thousand nine hundred eighty-seven, relating to the commissioner of the department of energy (safety training program for prospective underground coal miners in West Virginia) are authorized.

(c) The legislative rules filed in the state register on the fifteenth day of December, one thousand nine hundred eighty-six, modified by the commissioner of the
department of energy to meet the objections of the legislative rule-making review committee and refiled in the state register on the twenty-first day of January, one thousand nine hundred eighty-seven, relating to the commissioner of the department of energy (safety training program for prospective surface coal miners in West Virginia) are authorized.

(d) The legislative rules filed in the state register on the third day of April, one thousand nine hundred eighty-seven, relating to the department of energy (standards for certification of underground belt examiners for underground coal mines) are authorized.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is hereby approved this the 26th day of April, 1987.

Governor